



MEMORANDUM

To: PLANNING COMMISSION

Date: September 26, 2006

From: COMMUNITY DEVELOPMENT DEPARTMENT

Subject: USE PERMIT APPLICATION, UP-06-07: CONDIT-PERSING

REQUEST

The applicant is requesting approval of a conditional use permit to allow a 11,029 sq. ft. retail use within the Condit Rd. PUD. The proposed retail use is a Patio World facility proposed to be constructed on a one acre site located on the west side of Condit Rd. adjacent to the north side of the Harley Davidson retail facility. (APN 817-13-026)

RECOMMENDATION

Environmental Assessment: Categorical Exempt pursuant to CEQA section 15303 (c).

Application, UP-06-07: Adopt resolution approving the use permit

Processing Deadline: March 27, 2007

CASE ANALYSIS

Background

The proposed one acre site is located within the Condit Rd. PUD. The strip of properties adjacent to the east side of Highway 101 and west of Condit Rd., between E. Dunne Ave. and Tennant Ave. was designated as a PUD (Ord. 1488) in September 2000 by the City Council. The purpose of the Council's PUD designation was to address the prominent visibility of the sites through coordination of use, design and site access. In 2001, the Harley dealership wanted to develop within the PUD and pursuant to the City's PUD ordinance had to further define the PUD. In January 2002, the Council adopted ordinance 1544, establishing a precise development plan, permitted and conditional uses and design standards for the PUD.

Conditional Use Permit

The “Condit Road” PUD adopted by Ordinance 1544 includes the following as permitted and conditional uses:

Permitted

- 1) Restaurant, sit down
- 2) Wine Tasting
- 3) Retail uses supportive of hotel uses within the PUD, excluding grocery, supermarket and drug stores.
- 4) Hotels and motels, a maximum of 5 will be allowed in the PUD.
- 5) Arts and crafts galleries
- 6) Conference centers, banquet and meeting rooms.

Conditional

- 1) Commercial Recreation
- 2) Two motor vehicle sales and service uses. Service uses shall only be allowed when ancillary to motor vehicle sales.
- 3) One fast food restaurant
- 4) Any other use, which the Planning Commission determines to be similar to permitted or conditional uses.

Inclusion of any of these conditional uses in the PUD shall be allowed only upon granting of a conditional use permit finding that the use will be consistent with the gateway and scenic corridor qualities of this PUD and the findings as contained in Section 18.54.050 of the Morgan Hill Municipal Code. This finding shall include consideration of the quality of the proposed physical improvements to the site, the extent of outdoor activity on the site that will be visible from public rights of way and the manner in which the use is conducted on the site.

The applicant is requesting approval to operate an extensive retail use (i.e. sale of outdoor furnishings) which is not a retail use supportive of the hotel uses however, Section 4 of Ordinance 1544 contains a provision which allows for amendment to the PUD via the approval of a conditional use permit and or architectural and site review. Ordinance 1544 requires that conditional uses be consistent with the gateway and scenic corridor qualities of the PUD and findings contained in section 18.54.050.

The proposed 11,029 sq. ft.* building is well detailed and appears to embody the architectural characteristics and specifications contained within the Condit Rd. PUD. For example, the building has a gabled roof of varying height, clay tile roof material, decorative rafters, awnings and decorative stone. As a new structure, the proposed building, site and landscape plans will also receive further review from the Architectural Review Board.

*Sheet C-1 indicates an incorrect building size.

Pursuant to the requirements in Section 18.54.050 of the Zoning Ordinance, the following findings are required to approve a conditional use permit for the proposed extensive retail use:

- A. The site is suitable and adequate for the proposed use.
- B. The proposed use and design would not have a substantial adverse effect on traffic circulation and on the planned capacity of the street system.
- C. The proposed use at the location will not adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area, or impair the utility or value of property of other persons located in the vicinity of the site, or be detrimental to public health, safety or general welfare.
- D. The design of the project is compatible with existing and proposed development within the district and its surroundings.

Site Suitability

The overall site is approximately 1 acre in size. The site is currently undeveloped and surrounded by an existing hotel to the north and a motor cycle dealership to the south. Access to the development will be provided via a single driveway entrance onto Condit Rd. but also connecting to the existing drive aisle to the rear (west side) of the hotel site and the existing drive aisles to the north and south sides of the site. The drive aisle connections as proposed are consistent with the PUD master plan and circulation requirements. The proposed building will be constructed along the north side of the site with parking proposed along the south side and on the Condit Rd. frontage. The proposed retail use will require 44 parking stalls and is proposing 45 on site. The site is adequately sized and located to accommodate the proposed use, building and required parking. Ordinance 1488 (which originally designated the Condit Rd area as a PUD) included a provision that stated that uses in the PUD shall serve the needs of the traveling public and the sub-regional shopping needs of the area. The applicant is proposing a high quality building which will be highly visible from Highway 101. The proposed use is sub-regional in nature and consistent with the Council's original intent of designating the land in between the freeway and Condit Rd. as a PUD.

Circulation

The proposed development will have a single driveway entrance off of Condit Rd. and shared circulation with the adjoining sites. The uses anticipated along Condit Rd. range from high traffic generating uses such as restaurants to low traffic generating motels. The majority of the existing uses in the immediate area are lower traffic generating uses (specialty retail and hotels). The proposed extensive retail use would produce approximately 4.3-6.3 trip ends per 1000 sq. ft. (47-70 total vehicle trips) which would create a minimal impact on Condit Rd. Based on the size of the building, proposed use and design, it is not anticipated to have a substantial adverse effect on traffic circulation or on the planned capacity of the street system.

General Welfare

The proposed use would not adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area, or impair the utility or value of property of other persons located in the vicinity of the site, or be detrimental to public health, safety or general welfare. According to the applicant's Statement of Proposed Operations, the Patio World retail establishment will be open seven days a week from 10 am to 6 pm. Please refer to the applicant's Statement of Proposed Operations and Letter of Justification (attached to this report) for more detailed information regarding the proposed use. The building is anticipated to include Patio World as its sole tenant.

The use is conducted wholly indoors and should not produce any noise or glare that would adversely affect the adjoining sites. The project is not anticipated to adversely affect the peace, welfare or value of the immediate uses. Instead, the proposed development will likely enhance the project area.

Compatibility

The subject building is proposed to be two-story, stucco, with a clay tile roof and other details and features which will make the proposed building architecturally comparable to the surrounding development. For example, the roof material, stone trim, rafter details and recessed window areas can be found on other buildings in the area. The structure is in scale with the surrounding built environment and will help soften the existing 3-story hotel's appearance by providing a transition in building height.

RECOMMENDATION

Staff recommends approval of the Conditional Use Permit request, subject to the findings and conditions contained in the attached resolution.

Attachments:

1. Approval Resolution
2. Applicant's Letter of Justification
3. Applicant's Statement of Proposed Operations

RESOLUTION NO. 06-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING A CONDITIONAL USE PERMIT TO ALLOW A PROPOSED 11,029-SF RETAIL BUILDING BE OCCUPIED WITH AN EXTENSIVE RETAIL USE (OUTDOOR FURNITURE SALES) ON THE ONE-ACRE SITE LOCATED ON THE WEST SIDE OF CONDIT RD. ADJACENT TO THE NORTH SIDE OF THE HARLEY DAVIDSON RETAIL FACILITY. (APN 817-13-026)

WHEREAS, such request was considered by the Planning Commission at their regular meeting of September 26, 2006, at which time the Planning Commission approved use permit application UP-06-07: Condit - Persing; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

- SECTION 1.** The approved project is consistent with the Zoning Ordinance and the General Plan.
- SECTION 2.** The project is categorically exempt from CEQA under Section 15303, New Construction.
- SECTION 3.** The approved conditional use has been found consistent with the criteria for use permit approval contained in Section 18.54.050 of the Zoning Code and Ordinance 1544.
- SECTION 4.** The Planning Commission hereby approves of a proposed 11,029-sf retail building to be occupied with an extensive retail use (i.e. outdoor furniture sales) on a one-acre site located on the west side of Condit Rd. adjacent to the north side of the Harley Davidson retail facility. (APN 817-13-026)
- SECTION 5.** The approved project shall be subject to the following conditions:
- A. Signed Resolutions. Within 30 days of conditional use permit approval, the applicant shall submit two (2) signed copies of Resolution No. 06- to the Planning Division.

- B. Time Limitations. The Conditional Use Permit approval granted under this Resolution shall remain in effect for twelve (12) months from the effective date of the related Architectural and Site Plan Review Approval Resolution. Failure to commence the use within this term shall result in termination of approval unless an extension of time is granted with a showing of just cause prior to the expiration date.
- C. Use Approval. The use shall operate consistent with the applicant's Statement of Proposed Operations, date stamped August 28, 2006, on file with the Planning Division.
- D. Annual Review. In accordance with Section 18.54.090 of the Municipal Code, the Community Development Department shall conduct an annual review of the approved use for compliance with specified conditions. The Department may initiate corrective action as specified in the aforementioned Code Section as necessary to ensure compliance with said conditions.
- E. Alterations to Approved Plans. Alterations to the approved site plan may be made by the Architectural and Site Review Board. The Board will also have final approval of the building elevations, signage and landscape plans.
- F. Defense and indemnity. Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of applicant's project. In addition, developer shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, developer shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted.

PASSED AND ADOPTED THIS 26th DAY OF SEPTEMBER 2006, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

A F F I D A V I T

I, _____, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

, Applicant

Date: _____

PLANNING DEPT.

AUG 28 2006

CITY OF MORGAN HILL

August 21, 2006

City Of Morgan Hill
Community Development Dept.
17555 Peak Avenue
Morgan Hill, CA 95037

Attn: Terry Linder

Re: Patioworld
16195 Condit Road
Conditional Use Permit Application
Letter of Justification

Dear Mrs. Linder,

Per the City of Morgan Hill's application for a conditional use permit application, we are writing this Letter of Justification to satisfy section 'E' of the filing requirements in order to allow Patioworld to conduct business as a patio furniture retailer in the proposed location. Our justifications are as follows:

1.) Q: Is the site suitable for the proposed use?

A: The site is an approximate 1 acre site zoned for retail use as defined by the Condit PUD with high freeway visibility. Although not stated as a permitted use, the PUD clearly states the following:

"This PUD contains all of the properties adjacent to the eastern side of Highway 101, between Dunne and Tennant Avenues. Given its excellent visibility from and access to Highway 101, uses within this PUD shall serve the needs of the traveling public and the sub-regional shopping needs of the area."

As the attached letter from Patioworld demonstrates, their product caters to those that seek a higher end product than what is currently offered by other big box retailers in the area. Morgan Hill's demographic clearly shows that there is a present and growing need for this type of product for its citizens. For this reason Patioworld clearly serves the "sub-regional shopping needs of the area". In addition, the high visibility afforded from the freeway will undoubtedly invite our close neighbors from the North and South into the store to shop since there is currently no similar type of product is being offered nearby.

2.) Q: Would the proposed use and design have a substantial adverse affect on traffic circulation and on the planned capacity of the street system.

A: Since Patioworld is a destination oriented use their anticipated trips per day is very light in comparison to other permitted uses with peak in season trips per day anticipated to max out at 70. In addition, operating hours will dictate that the peak number of trips are anticipated to occur outside of the typical rush hour with most volume occurring on weekends. Truck traffic will be limited since furniture warehousing and deliveries will be made from a Hayward distribution center.

3.) Q: Would the proposed use at the location requested:

- **Adversely affect the peace, health, safety, morals, or welfare of persons residing or working in the surrounding area.**
- **Impair the utility or value of property of other persons located in the vicinity of the site, or;**
- **Be detrimental to public health, safety, or welfare.**

A: We feel this all of the above items listed will actually be positively affected due to the synergy of this use with other uses in the PUD. The utility or value of neighboring properties at a minimum will not be affected from this use however there may be an expected increase due the infill of an adjacent property and the feel of a "more complete" commercial district. It will also improve the aesthetics of the immediate area, eliminating the weeds and rubbish that is currently finding its way on to the site. In addition, development of the site to current life safety regulations is an improvement over conditions that currently exist. Elimination of the weeds will reduce a potential fire hazard to the immediate neighbors. Connecting parking lots between the adjacent neighbors will provide a safe area for overflow traffic between the PUD uses.

4.) Q: Is the design of the project compatible with the existing and proposed development within the district and its surroundings.

A: It is our intent to fully comply with the Architectural requirements defined in the PUD therefore the design of the project inherently must be compatible with existing and proposed development within its district. In addition, we feel the use as a Patio Furniture Store has a unique synergy with the Aquatic Center which in itself has a unique use within the PUD. In addition, the property is an infill between the Harley Dealer and the Comfort Inn. The additional onsite interconnected parking will serve as a safe overflow from these locations as desired by the PUD. Currently, both the Aquatics Center and the Harley Dealer use the site as overflow parking and this poses an inherent fire risk to our immediate neighbors should the cars come in contact with the dry weeds that are currently onsite.

5.) Q: Will the proposed use allow retail sales of groceries, food or beverage items upon an automobile service station premises?

A: The proposed use incorporates only the sale of outdoor patio furniture and equipment. None of the above uses will occur.

We hope the above answers clarify any questions you may have regarding the proposed use as well as justify the appropriateness of the requested conditional use permit. If you have any questions at all please feel free to call me at (408)209-1383.

Thank you,



Jon Persing
Owner



PLANNING DEPT.

AUG 28 2006

CITY OF MORGAN HILL

August 18, 2006

Mr. Jon Persing
President
OPI Commercial Builders
445 Leigh Ave., #100
Los Gatos, CA 95032

Re: Patioworld – CUP Application for City of Morgan Hill

Dear Jon:

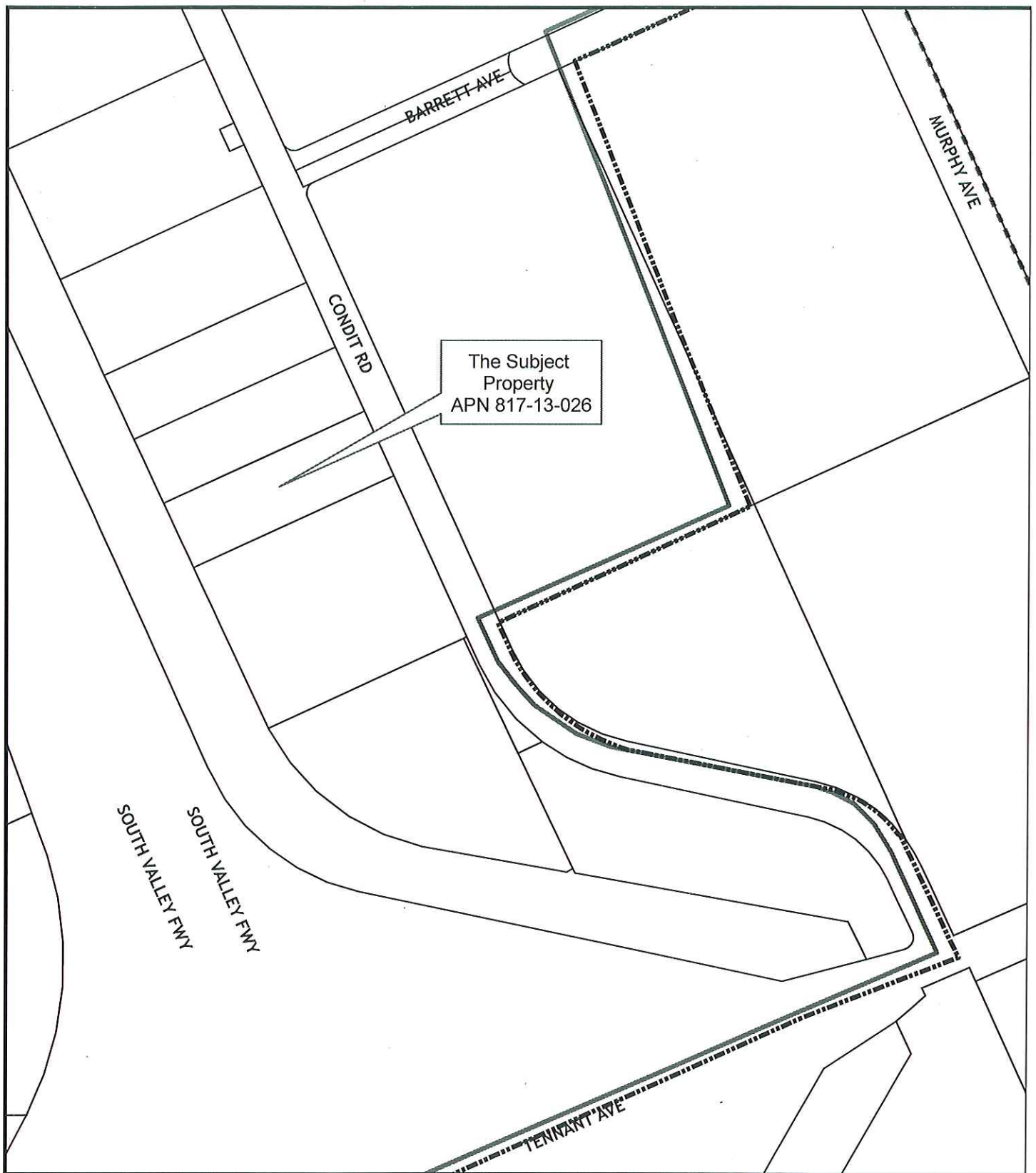
We are very excited over the possibility of opening a Patioworld store in the City of Morgan Hill. We believe our business would be a very fine fit for the City and we feel our use is consistent with the PUD zoning for the subject site.

In particular, our principal business is the sale of mostly “high-end” outdoor furniture and accessory merchandise. Our product offerings would be especially suitable to the sub-regional shopping needs of Morgan Hill residents, and to a lesser degree certain of the neighboring communities. We cater to a mostly affluent consumer and the demographics of Morgan Hill certainly fit this requirement. In addition, our proposed operation would be a showroom and most furniture sales would be delivered out of our Hayward warehouse and distribution center. Consequently, there would be minimal truck traffic and, as our business does not generate high customer traffic, minimal impact on traffic congestion or parking in the surrounding area.

To assist in your completion of the CUP application, the following information may be helpful:

- **Hours and Days of Operation** Our business operates 7 days a week with hours of operation from 10:00 am to 6:00 pm.
- **Employees** We expect to employ from 4 to 6 employees at this location.
- **Daily trips** Our business is seasonal to a large extent with our peak selling season occurring from March through October. In season, we would expect 30-50 customer trips on weekdays and 50-70 trips on weekends. During the offseason these trips would be reduced to a range of 20-30 and 30-50 on weekdays and weekends, respectively.

20525 Nordhoff Street, Suite 210
Chatsworth, California 91311-6100
Telephone (818) 407-3888



UP 06-07 Condit-Persing

Vicinity Map

